

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 281 be amended to read as follows:

- 1 Page 2, between lines 31 and 32, begin a new paragraph and insert:
- 2 "SECTION 2. IC 5-2-1-9, AS AMENDED BY P.L.230-2007,
- 3 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2008]: Sec. 9. (a) The board shall adopt in accordance with
- 5 IC 4-22-2 all necessary rules to carry out the provisions of this chapter.
- 6 The rules, which shall be adopted only after necessary and proper
- 7 investigation and inquiry by the board, shall include the establishment
- 8 of the following:
- 9 (1) Minimum standards of physical, educational, mental, and
- 10 moral fitness which shall govern the acceptance of any person for
- 11 training by any law enforcement training school or academy
- 12 meeting or exceeding the minimum standards established
- 13 pursuant to this chapter.
- 14 (2) Minimum standards for law enforcement training schools
- 15 administered by towns, cities, counties, law enforcement training
- 16 centers, agencies, or departments of the state.
- 17 (3) Minimum standards for courses of study, attendance
- 18 requirements, equipment, and facilities for approved town, city,
- 19 county, and state law enforcement officer, police reserve officer,
- 20 and conservation reserve officer training schools.
- 21 (4) Minimum standards for a course of study on cultural diversity
- 22 awareness that must be required for each person accepted for
- 23 training at a law enforcement training school or academy.
- 24 (5) Minimum qualifications for instructors at approved law

enforcement training schools.

(6) Minimum basic training requirements which law enforcement officers appointed to probationary terms shall complete before being eligible for continued or permanent employment.

(7) Minimum basic training requirements which law enforcement officers appointed on other than a permanent basis shall complete in order to be eligible for continued employment or permanent appointment.

(8) Minimum basic training requirements which law enforcement officers appointed on a permanent basis shall complete in order to be eligible for continued employment.

(9) Minimum basic training requirements for each person accepted for training at a law enforcement training school or academy that include six (6) hours of training in interacting with persons with mental illness, addictive disorders, mental retardation, and developmental disabilities, to be provided by persons approved by the secretary of family and social services and the board.

(10) Minimum standards for a course of study on human and sexual trafficking that must be required for each person accepted for training at a law enforcement training school or academy and for inservice training programs for law enforcement officers. The course must cover the following topics:

(A) Examination of the human and sexual trafficking laws (IC 35-42-3.5).

(B) Identification of human and sexual trafficking.

(C) Communicating with traumatized persons.

(D) Therapeutically appropriate investigative techniques.

(E) Collaboration with federal law enforcement officials.

(F) Rights of and protections afforded to victims.

(G) Providing documentation that satisfies the Declaration of Law Enforcement Officer for Victim of Trafficking in Persons (Form I-914, Supplement B) requirements established under federal law.

(H) The availability of community resources to assist human and sexual trafficking victims.

(b) Except as provided in subsection (l), a law enforcement officer appointed after July 5, 1972, and before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the

officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (l), (q), and (r), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

- (1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or
- (2) an:
 - (A) attorney; or
 - (B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-2-1-15(i).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;
- (2) police reserve officers (as described in IC 36-8-3-20); and
- (3) conservation reserve officers (as described in IC 14-9-8-27);

regarding the subjects of arrest, search and seizure, the lawful use of force, and the operation of an emergency vehicle. The pre-basic course must be offered on a periodic basis throughout the year at regional sites statewide. The pre-basic course must consist of at least forty (40) hours of course work. The board may prepare the classroom part of the pre-basic course using available technology in conjunction with live instruction. The board shall provide the course material, the instructors,

1 and the facilities at the regional sites throughout the state that are used
2 for the pre-basic course. In addition, the board may certify pre-basic
3 courses that may be conducted by other public or private training
4 entities, including postsecondary educational institutions.

5 (g) The board shall adopt rules under IC 4-22-2 to establish a
6 mandatory inservice training program for police officers. After June 30,
7 1993, a law enforcement officer who has satisfactorily completed basic
8 training and has been appointed to a law enforcement department or
9 agency on either a full-time or part-time basis is not eligible for
10 continued employment unless the officer satisfactorily completes the
11 mandatory inservice training requirements established by rules adopted
12 by the board. Inservice training must include training in interacting
13 with persons with mental illness, addictive disorders, mental
14 retardation, and developmental disabilities, to be provided by persons
15 approved by the secretary of family and social services and the board,
16 and training concerning human and sexual trafficking. The board may
17 approve courses offered by other public or private training entities,
18 including postsecondary educational institutions, as necessary in order
19 to ensure the availability of an adequate number of inservice training
20 programs. The board may waive an officer's inservice training
21 requirements if the board determines that the officer's reason for
22 lacking the required amount of inservice training hours is due to either
23 of the following:

24 (1) An emergency situation.

25 (2) The unavailability of courses.

26 (h) The board shall also adopt rules establishing a town marshal
27 basic training program, subject to the following:

28 (1) The program must require fewer hours of instruction and class
29 attendance and fewer courses of study than are required for the
30 mandated basic training program.

31 (2) Certain parts of the course materials may be studied by a
32 candidate at the candidate's home in order to fulfill requirements
33 of the program.

34 (3) Law enforcement officers successfully completing the
35 requirements of the program are eligible for appointment only in
36 towns employing the town marshal system (IC 36-5-7) and having
37 not more than one (1) marshal and two (2) deputies.

38 (4) The limitation imposed by subdivision (3) does not apply to an
39 officer who has successfully completed the mandated basic
40 training program.

41 (5) The time limitations imposed by subsections (b) and (c) for
42 completing the training are also applicable to the town marshal
43 basic training program.

44 (i) The board shall adopt rules under IC 4-22-2 to establish an
45 executive training program. The executive training program must
46 include training in the following areas:

- (1) Liability.
- (2) Media relations.
- (3) Accounting and administration.
- (4) Discipline.
- (5) Department policy making.
- (6) Lawful use of force.
- (7) Department programs.
- (8) Emergency vehicle operation.
- (9) Cultural diversity.

(j) A police chief shall apply for admission to the executive training program within two (2) months of the date the police chief initially takes office. A police chief must successfully complete the executive training program within six (6) months of the date the police chief initially takes office. However, if space in the executive training program is not available at a time that will allow completion of the executive training program within six (6) months of the date the police chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(k) A police chief who fails to comply with subsection (j) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (j), "police chief" refers to:

- (1) the police chief of any city;
- (2) the police chief of any town having a metropolitan police department; and
- (3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(l) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(m) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(n) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

- (1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;
- (2) worked as a full-time law enforcement officer for at least one (1) year before the officer is hired under subdivision (1);
- (3) has not been employed as a law enforcement officer for at

least two (2) years and less than six (6) years before the officer is hired under subdivision (1) due to the officer's resignation or retirement; and

(4) completed a basic training course certified by the board before the officer is hired under subdivision (1).

(o) An officer to whom subsection (n) applies must successfully complete the refresher course described in subsection (n) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

(1) arrest;

(2) search; and

(3) seizure.

(p) A law enforcement officer who:

(1) has completed a basic training course certified by the board; and

(2) has not been employed as a law enforcement officer in the six (6) years before the officer is hired as a law enforcement officer;

is not eligible to attend the refresher course described in subsection (n) and must repeat the full basic training course to regain law enforcement powers.

(q) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(r) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(s) This subsection applies to the following programs:

(1) Minimum basic training program required under subsection (d).

(2) Mandatory inservice training program required under subsection (g).

(3) Town marshal basic training program required under subsection (h).

(4) Police chief executive training program required under

subsection (j).

(5) Any other training program for which the board adopts standards.

After December 31, 2008, the standards adopted by the board for each program described in this subsection must include requirements for mandatory training in identifying, responding to, and reporting bias crimes in which the person who committed the offense selected the victim who was injured or whose property was damaged or otherwise affected because of the color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of the victim or an individual affiliated or associated with the victim or because the victim was a homeless individual (as defined in IC 35-41-1-13.5)."

Page 4, between lines 17 and 18, begin a new paragraph and insert:
"SECTION 4. IC 34-24-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]:

Chapter 5. Civil Action for Victims of Bias Crime Offenders

Sec. 1. As used in this chapter, "bias crime offender" means a person:

(1) who:

(A) was convicted of committing a crime that injured an individual; and

(B) knowingly or intentionally selected the individual as the victim of the crime because:

(i) of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of the victim;

(ii) of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of an individual affiliated or associated with the victim; or

(iii) the victim was a homeless individual; or

(2) who:

(A) was convicted of committing a crime that damaged or otherwise affected property; and

(B) knowingly or intentionally damaged or otherwise affected the property because:

(i) of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of the individual who owned or occupied the property;

(ii) of the actual or perceived color, creed, disability, national origin, race, religion, sexual orientation, gender identity, or sex of an individual affiliated or associated with the individual who owned or occupied the property;

or

(iii) the individual who owned or occupied the property was a homeless individual.

Sec. 2. (a) As used in this chapter, "homeless individual" means an individual who:

- (1) lacks a fixed, regular, and adequate nighttime residence; or
- (2) uses one (1) of the following as a primary nighttime residence:

(A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including a motel, a hotel, a congregate shelter, or transitional housing.

(B) A public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.

(b) The term does not include an individual imprisoned or otherwise detained under state or federal law.

Sec. 3. If an individual suffers a pecuniary loss because of the commission of a crime by a bias crime offender, the individual may bring a civil action against the person who caused the loss.

Sec. 4. An individual bringing an action under section 3 of this chapter may seek to recover the following:

- (1) Actual, compensatory, and consequential damages.
- (2) Punitive damages in an amount not more than three (3) times the person's actual damages.
- (3) The costs of the action.
- (4) Reasonable attorney's fees.

Sec. 5. (a) Except as provided in subsection (b), this chapter does not limit a person's rights or remedies under any other state or federal law.

(b) A person may not recover damages under IC 34-24-3 and this chapter for the same crime.

SECTION 5. IC 35-38-1-7.1, AS AMENDED BY P.L.213-2005, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 7.1. (a) In determining what sentence to impose for a crime, the court may consider the following aggravating circumstances:

- (1) The harm, injury, loss, or damage suffered by the victim of an offense was:
 - (A) significant; and
 - (B) greater than the elements necessary to prove the commission of the offense.
- (2) The person has a history of criminal or delinquent behavior.
- (3) The victim of the offense was less than twelve (12) years of age or at least sixty-five (65) years of age at the time the person committed the offense.
- (4) The person:

- 1 (A) committed a crime of violence (IC 35-50-1-2); and
- 2 (B) knowingly committed the offense in the presence or within
- 3 hearing of an individual who:
 - 4 (i) was less than eighteen (18) years of age at the time the
 - 5 person committed the offense; and
 - 6 (ii) is not the victim of the offense.
- 7 (5) The person violated a protective order issued against the
- 8 person under IC 34-26-5 (or IC 31-1-11.5, IC 34-26-2, or
- 9 IC 34-4-5.1 before their repeal), a workplace violence restraining
- 10 order issued against the person under IC 34-26-6, or a no contact
- 11 order issued against the person.
- 12 (6) The person has recently violated the conditions of any
- 13 probation, parole, pardon, community corrections placement, or
- 14 pretrial release granted to the person.
- 15 (7) The victim of the offense was:
 - 16 **(A) a person with a disability (as defined in IC 27-7-6-12),**
 - 17 **and the defendant knew or should have known that the**
 - 18 **victim was a person with a disability; or**
 - 19 **(B) mentally or physically infirm.**
- 20 (8) The person was in a position having care, custody, or control
- 21 of the victim of the offense.
- 22 (9) The injury to or death of the victim of the offense was the
- 23 result of shaken baby syndrome (as defined in IC 16-41-40-2).
- 24 (10) The person threatened to harm the victim of the offense or a
- 25 witness if the victim or witness told anyone about the offense.
- 26 (11) The person:
 - 27 (A) committed trafficking with an inmate under IC 35-44-3-9;
 - 28 and
 - 29 (B) is an employee of the penal facility.
- 30 **(12) The person who committed the offense knowingly or**
- 31 **intentionally selected the victim who was injured by the**
- 32 **offense or whose property was damaged or otherwise affected**
- 33 **by the offense because:**
 - 34 **(A) of the actual or perceived color, creed, disability,**
 - 35 **national origin, race, religion, sexual orientation, gender**
 - 36 **identity, sex, or any other characteristic or belief of the**
 - 37 **injured individual or of the owner or occupant of the**
 - 38 **property;**
 - 39 **(B) of the actual or perceived color, creed, disability,**
 - 40 **national origin, race, religion, sexual orientation, gender**
 - 41 **identity, sex, or any other characteristic or belief of an**
 - 42 **individual affiliated or associated with the injured**
 - 43 **individual or of the owner or occupant of the property; or**
 - 44 **(C) the injured individual or the owner or occupant of the**
 - 45 **property was a homeless individual.**
- 46 (b) The court may consider the following factors as mitigating

circumstances or as favoring suspending the sentence and imposing probation:

- (1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.
- (2) The crime was the result of circumstances unlikely to recur.
- (3) The victim of the crime induced or facilitated the offense.
- (4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.
- (5) The person acted under strong provocation.
- (6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.
- (7) The person is likely to respond affirmatively to probation or short term imprisonment.
- (8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.
- (9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.
- (10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.
- (11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the victim of the crime for which the person was convicted.

(c) The criteria listed in subsections (a) and (b) do not limit the matters that the court may consider in determining the sentence.

(d) A court may impose any sentence that is:

- (1) authorized by statute; and
 - (2) permissible under the Constitution of the State of Indiana;
- regardless of the presence or absence of aggravating circumstances or mitigating circumstances.

SECTION 5. IC 35-41-1-13.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: **Sec. 13.5. (a) "Homeless individual" means an individual who:**

- (1) lacks a fixed, regular, and adequate nighttime residence;**
- or**
- (2) uses one (1) of the following as a primary nighttime residence:**
 - (A) A supervised publicly or privately operated shelter designed to provide temporary living accommodations, including a motel, a hotel, a congregate shelter, or transitional housing.**

1 **(B) A public or private place not designed for, or**
2 **ordinarily used as, a regular sleeping accommodation for**
3 **human beings.**

4 **(b) The term does not include an individual imprisoned or**
5 **otherwise detained under state or federal law."**

6 Page 4, after line 29, begin a new paragraph and insert:

7 **"SECTION 6. [EFFECTIVE JULY 1, 2008] (a) IC 35-38-1-7.1, as**
8 **amended by this act, applies only to offenses committed after June**
9 **30, 2008.**

10 **(b) IC 34-24-5, as added by this act, applies only to causes of**
11 **action that accrue after June 30, 2008."**

12 Renumber all SECTIONS consecutively.

(Reference is to ESB 281 as printed February 22, 2008.)

Representative Porter